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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,455	04/12/2004	James D. Cook	MTEZ 2 00035-1	2908
27885	7590	05/02/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			SINGH, SUNIL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/822,455

Applicant(s)

COOK

Examiner

Sunil Singh

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33,43,46,49-68,70 and 71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33,43,46,49-68,70-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 33,50-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 33, "said first end of said support device does not engage the borehole" appears to be incorrect.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 33,43,46,49, 51-57, 60,62-68,71 are rejected under 35 U.S.C. 102(b) as being anticipated by Ernst et al. (US 5816759).

Ernst et al. discloses a bolt and anchor assembly comprising an elongated bolt (20,22), a shell (30), expansion member (40), a support device (shell support) (29), engagement between said support device and said shell sequentially forces said shell into said expansion member to expand said shell to anchor said elongated in said associated bore hole (see col. 4 line 60+, col. 5 lines 1-16, col. 7 lines 1-10) and then allows axial

movement of said support device in a direction toward and relative to said shell (see abstract, col. 4 lines 10-50, col. 7 line 5+). Base ring (32,33), fingers (35). Tapered surfaces (28,23, see Fig. 4) for both the support device and shell. Notch (36).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 50,59,70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ernst et al..

Ernst et al. discloses the invention substantially as claimed. However, Ernst et al. is silent about the support device being threadedly received on the bolt. The examiner takes official notice that support device being threadedly received on a bolt is old and well known. It would have been considered obvious to one of ordinary skill in the art to modify Ernst et al. by making the support device threadedly received on the bolt since such modification is well known and old and since this facilitate the installment of the support device.

5. Claims 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ernst et al..

Ernst et al. discloses the invention substantially as claimed. However, Ernst et al. is silent about at what force does the support move relative to the shell. It would have

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been considered obvious to one of ordinary skill in the art to modify Ernst et al. by making the support device move relative to the shell at about 5,000lbs since this is a mere design choice.

6. Claims 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ernst et al..

Ernst et al. discloses the invention substantially as claimed. However, Ernst et al. is silent about the support having an antifriction coating. The examiner takes official notice that support having antifriction coating is old and well known in the art. It would have been considered obvious to one of ordinary skill in the art to modify Ernst et al. by making the support device with an antifriction coating since this enables the relative movement between the support and the shell.

### ***Response to Arguments***

7. Upon further consideration of the Ernst et al., the subject matter indicated in the interview of 3/30/06 as being allowable has been hereby withdrawn. The term "final installed position" is relative and since the "second end" (34) of Ernst et al. is expanded outwardly into engagement with the borehole wall before the "first end" (32), therefore at this very point one can consider it to be the "final installed position". "Final installed position" can be considered when 2000lbs of torque is reached or 5000lbs; it is because of this uncertainty why the examiner has withdrawn language previously indicated allowable.

**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Engle Patricia can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh  
Primary Examiner  
Art Unit 3673



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4/26/06